IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF JUNE
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE R.SUBHASH REDDY

WRIT PETITION NO : 1052 of 1999

Between:

1 Jampana Subbaraju, s/o Late Venkatapati Raju,
R/o Pippara Village, Ganapvaram Mandal,
W.G.Dist.
2 Jampana Ramesh Varma S/o Jampana Subbaraju,
R/o Pippara Village, Ganapvaram Mandal,
W.G.Dist.

..... PETITIONER(S)

AND

1 The Dist Collector
W.G.Dist.
2 The Land Acquisation Officer & Revenue Divisional Officer
Eluru, W.G.Dist.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to to issue a writ, order or direction, more particularly one in the nature of writ of Mandamus or any other appropriate writ and declare the action of the respondents in acquiring and taking possession of the land survey.No.223/1B situated ar Pippara Village , Ganapavaram Mandal, W.G.Dist is highly illegal, arbitrary and contrary to the Land Acquisition Act, and consequently direct the respondent not to interfere with the physical actual possession of the petitioners and not to take over the possession of the petitioners and not to take over the possession of land admeasuring 1 acre 6 cents in land survey.No.223/1B situated at Pippara village, Ganapavaram Mandal, W.G.Dist and pass

For the Petitioners:Mr.VENKATARAGHU RAMULU, Advocate

For the Respondent No.: GP FOR Land Acquisition

The Court Made the Following :

This Writ Petition is filed, seeking Writ of Mandamus, to declare the action of the respondents in acquiring the land in Sy.No. 223/1B, ad-measuring Ac.1.06 cents, situated in Pippara village, Ganapavaram Mandal of West Godavari District as illegal and arbitrary.

It is the case of the petitioners that they are in possession of Ac.1.06 cents of land, situated in Sy. 223/1B of Pippara village and cultivating the said land by paying 15 bags per acre as Makta to Bairagi Matham, Venugopala Swami Temple, Kaspa Pentapadu village, Pentapadu Mandal, West Godavari District. Though the petitioners have not questioned notification issued under the provisions of the Land Acquisition Act, 1894, they are seeking relief in the declaratory manner, directing the respondents not to interfere with their peaceful possession of the land in question. It is the case of the petitioners that having regard to the nature of public purpose, there is no urgency to acquire the land in question by dispensing enquiry under Section 5-A of the Land Acquisition Act, 1894. It is the further case of the petitioners that other vacant porambok lands are available in the village for the purpose of house sites and in spite of the same, the respondents have chosen to acquire the land in question at the instance of some persons in the village. It is their further case that notification as required under Section 4(1) of the Land Acquisition Act, 1894 is not published in the news papers.

In the counter affidavit filed on behalf of the respondents, it is stated that certain encroachments were removed from the road margins in Pippara village limits and in order to provide alternative house sites to the said encroachers, land covered by Sy.Nos. 223/1B, 223/2 and 223/3 of Pippara village, belonging to Bairagimattam Devastanam is proposed for acquisition, and, notification under Section 4(1) and declaration under Section 6 of the Land Acquisition Act, 1894 were published in the District Gazettee on 9-12-1998 and 16-12-1998 respectively and in the News papers on 12-12-1998 and 22-12-1998. Further it is stated that the land in question was acquired after conducting enquiry with regard to suitability for house sites. It is the case of the respondents that no

government land is available in the Pippara village to provide house sites and the acquisition of the land in question is following the procedure envisaged under the provisions of the Land Acquisition Act, 1894.

Having regard to the above submissions, it is to be seen, it is not for the petitioners to contend that there is no urgency to dispense with the enquiry under Section 5-A of the Land Acquisition Act, 1894. It is stated in the counter affidavit filed on behalf of the respondents that for rehabilitation of certain persons, who were evicted from the encroachments, land in question was acquired by invoking urgency clause, dispensing with the enquiry under Section 5-A of the Land Acquisition Act, 1894. It is for the respondent authorities to come to the conclusion for invoking the urgency clause. In view of the stand of the respondents in the counter affidavit, it cannot be said that there is no such urgency to dispense with the enquiry under Section 5-A of the Act. Further, with regard to availability of other lands, it is stated in the counter affidavit that no government lands are available in the Pippara village and after conducting enquiry, the land in question was selected for acquisition to provide house sites. Even with regard to the plea of the petitioners for non publication of notification as required under law, it is clearly stated that notification under Section 4(1) and declaration under Section 6 of the Land Acquisition Act, 1894 were published in the news papers on 12-12-1998 and 22-12-1998 respectively. In that view of the matter, I do not see any flaw in the acquisition proceedings to interfere with the matter.

The Writ Petition is devoid of merits and is accordingly dismissed. No costs.

..... REGISTRAR

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SECTION OFFICER

To

1 The Dist Collector
W.G.Dist.
2 The Land Acquisation Officer & Revenue Divisional Officer
Eluru, W.G.Dist.

3. .2CCs to G.P. for Land Acquisition, High Court Buildings, Hyd (OUT)

2.2CD copies

Msnr.

*Form-NIC-OGS/WP{**MJS**}*